

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

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ANTHONY JOHN RIPA,

Plaintiff,

-against-

STONY BROOK UNIVERSITY,

Defendant.  
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**ORDER**

17-CV-4941 (JMA)(SIL)

**AZRACK, United States District Judge:**

On August 22, 2017 plaintiff Anthony Ripa filed a complaint against Stony Brook University, alleging violations of the Fourteenth Amendment of the U.S. Constitution pursuant to 42 U.S.C. § 1983, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (“Title VII”), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. (“Title IX”). The complaint additionally asserts a state law slander claim. On January 29, 2018, defendant filed its motion to dismiss. On May 11, 2018, the Court referred this motion to Magistrate Judge Steven I. Locke for a Report and Recommendation (R&R).

On June 11, 2018, Judge Locke issued an R&R recommending defendant’s motion to dismiss be granted in its entirety and that the complaint be dismissed without prejudice and with leave to amend, except for plaintiff’s Section 1983 cause of action, which he recommended be dismissed with prejudice.

On June 11, 2018, plaintiff filed objections to Judge Locke’s R&R, arguing in part that Judge Locke failed to properly apply the relevant law. Having conducted a review of the full record and the applicable law, the Court adopts Judge Locke’s R&R in its entirety as the opinion of the Court.

In reviewing a magistrate judge's report and recommendation, the court must "make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made." 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05–CV–5579, 2006 WL 3851152, at \*2 (S.D.N.Y. Dec. 29, 2006). The court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

The Court has undertaken a de novo review of the record, the R&R, and the instant objections and responses to those objections and agrees with Judge Locke's comprehensive and well-reasoned R&R. Accordingly, the Court grants defendant's motion to dismiss and dismisses the complaint without prejudice, and with leave to amend, except for plaintiff's Section 1983 cause of action, which the Court dismisses with prejudice.

Plaintiff is afforded an opportunity to amend his complaint in accordance with this Order. Plaintiff's amended complaint must be labeled as an "amended complaint," bear the same docket number as this Order, 17-CV-4941 (JMA)(SIL), and must be filed by September 10, 2018. Plaintiff is advised that an amended complaint completely replaces the original complaint, so plaintiff must include all allegations he wishes to pursue against defendant in the amended complaint. Further, if plaintiff does not file an amended complaint within the time allowed, all of plaintiff's claims will be dismissed with prejudice, judgment shall enter, and this case shall be closed.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and, therefore, in forma pauperis status is denied for the purpose

of any appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962). The Clerk of Court is directed to mail a copy of this Order to the pro se plaintiff.

**SO ORDERED.**

Date: August 10, 2018  
Central Islip, New York

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/s/ (JMA)  
Joan M. Azrack  
United States District Judge